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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,364	10/30/2003	David Wayne Gregg	65936	7901
27148	7590	11/08/2005	EXAMINER	
POLSINELLI SHALTON WELTE SUELTHAUS P.C. 700 W. 47TH STREET SUITE 1000 KANSAS CITY, MO 64112-1802			ADDIE, RAYMOND W	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/697,364	GREGG, DAVID WAYNE
	Examiner	Art Unit
	Raymond W. Addie	3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 August 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7,9-13,15-36,38,39,41-43,45-65 and 67-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7,9-13,15-36,38,39,41-43,45-65 and 67-90 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10/30/03 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 9, 12, 13, 15, 17, 19, 23, 26, 29-32, 34, 36, 38, 39, 41-43, 45, 46, 50, 53,

56, 57, 59, 61, 62, 65-68, 73, 76-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones # 5,022,783 in view of Wynings 6,585,451 B2.

Jones discloses a concrete stamping device (10) comprising:

A fluid delivery system including a source of water, and a conduit (14), in communication with the water source, to wash concrete from the surface of the stamp; and a plurality of spray nozzles (14a), for washing concrete away from the stamping surface.

A roller drum (18) including a surface (26), defined by a layer of material (19/19a) defining a stamp impression for forming a pattern.

At least one receiver portion (13, 16) for receiving the roller drum (18) in a rotatable engagement.

A handle (15) in communication with the receiver portion.

What Jones does not disclose is the use of dead weights to increase the stamping force of the roller drum.

However, Wynings teaches a known way of selectively adjusting the compacting force along a walk behind, compacting drum is to provide a receiver portion (16), with weight supporting rods (38) disposed at the ends of the receiver portion (16), proximate the ends of the compacting drum to support independent and separate sets of weights adjacent the ends of the compacting drum. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the concrete embossing/compacting drum assembly of Jones with an adjustable weight assembly, as taught by Wynings in order to adjust the compaction force generated by said compaction drum. See Wynings col. 3, Ins. 16-29; Jones Col. 3, Ins. 46-Col. 4, In. 65. See Sloan Figs. 1, 2; Cols. 2, 1-3.

In regards to claims 30-32 Jones discloses the receiver portions (13, 16) includes a cross-bar (13) in communication with lateral members (13a), but does not disclose the use of dead weights to increase the stamping force of the roller drum. However, Wynings teaches a concrete compacting machine, wherein a receiver portion (16) advantageously includes a bar member (18) having opposing ends, each end further comprises a holder (38) for weighting the compactor. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide

the concrete stamping apparatus of Jones, with a receiver portion configured for weighting the roller, as taught by Wynings, in order to customize the impressing force of the stamping assembly, relative to the hardness of the surface being compacted. See Jones Col. 3, Ins. 46-Col. 4, ln. 65. See Sloan Figs. 1, 2; Cols. 2, 1-3.

In regards to Claims 36, 38, 39, 41-43, 45 Jones discloses a method for stamping concrete comprising:

Providing a stamping apparatus including, a roller (18) including a stamping surface; a receiver portion (13) in rotatable engagement with said roller (18) and having opposing ends; a fluid transport system including at least one conduit (14) for providing release fluid the roller along the surface.

Moving the apparatus over a mass of concrete being worked in order to impart a pattern defined by the stamp.

Activating the fluid transport system for releasing fluid onto the surface of the roller.

What Jones does not disclose is weighting the apparatus to increase the compacting force of the roller.

However, Wynings teaches a method of customizing the compaction force of a compacting device, wherein a receiver portion (16) advantageously includes at least one bar member (18) having opposing ends, extending at least proximate to the ends of the compacting device. Wherein the method comprises the steps of:

Configuring the cross-bar (18) for weighting the roller with an upright, holder-element, such as a post (38), for holding removable weights (40) at each of the oppositely disposed ends of the bar member (18).

Adding weights (40) to at least one of the oppositely disposed ends of the receiver portion.

Removing at least a portion of the added weight (40) off of at least one of the oppositely disposed ends of the receiver.

Alternatively not adding and not removing weights from the receiver portion.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide method of concrete stamping apparatus of Jones, with a method for weighting compaction roller, as taught by Wynings, in order to customize the impressing force of the stamping assembly, in accordance with the hardness of the surface being embossed. See Jones Col. 3, Ins. 46-Col. 4, In. 65. See Wynings Figs. 1, 2; Cols. 1-3.

2. Claims 2-4, 6, 7, 10, 16, 18, 20-22, 24, 25, 27, 33, 35, 47-49, 51, 52, 54, 58, 60, 63, 64, 69-72, 82-86, 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones '783 in view of Wynings '451 as applied to claims 1, 19 above, and further in view of Ziegler et al. # 5,846,176.

Jones in view of Wynings discloses a concrete stamping apparatus, with removable weights and a fluid release system including at least one conduit (14) and a plurality of

spray nozzles (14a). What Jones in view of Wynings do not disclose is how the fluid is caused to be sprayed onto the roller body (18). However, Zieger et al. teaches it is known to provide a compacting roller (10) with a roller irrigation system that helps to prevent the accumulation of concrete debris on the roller body (12). Said irrigation system comprising: A removable tank/bottle (28) constituting a fluid source, mounted on a handle (24), distant and above the height of the roller body (12), the handle defining a housing for the at least one conduit (32). Said conduit (32) including at least one sub-line (34) on its end the at least one sub-line configured for extending at least to the receiver portion for providing fluid to the roller along the surface of said roller body (12); an activatable mechanism (such as a finger trigger) for discharging fluid from the at least one conduit (32) and being in communication with the at least one conduit. Wherein, the at least one sub-line (34) includes 2 sub-lines (34) each extending parallel to and above said roller body (12). Said sub-lines extending in opposite directions to one another, from a valve (33), in order to prevent accumulation of concrete debris on the roller body (12).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the concrete stamping apparatus of Jones in view of Wynings with a roller irrigation system, as taught by Zieger et al., in order to selectively spray water onto the concrete stamping roller, thus preventing concrete from sticking to said roller.

In regards to Claims 10, 18, 27, 35, 60, 69 Jones discloses "parts of the invention, to include variations in sized, materials, shape, form, function and manner of operation...are readily apparent and obvious to one skilled in the art. Further, Jones discloses that changes in the surface members (19) can be made to define a desired concrete stamping impression.

Still further, Zieger et al. teaches concrete stamping rollers are advantageously provided with a rubber sheet material having a plurality of protrusions (14) capable of forming random texturing in freshly-poured concrete. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the concrete stamping tool of Jones in view of Wynings with a roller having a concrete texturing material, as taught by Zieger et al., in order to improve traction during rain events. See Zieger et al., Col. 3, ln. 50-col. 4, ln. 54.

3. Claims 11, 18, 28, 35, 55, 60, 64, 69, 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones '783 in view of Wynings '451 as applied to claims 1, 19 above, and further in view Brimo # 4,776,723.

Jones '783 in view of Wynings discloses a concrete stamping tool including a stamping surface (19) that can be varied in size, shape and form; but does not disclose a concrete stamping tool having a pattern and a texture forming surface. However, Brimo teaches a concrete stamping tool (50) can have inner and outer blades (52, 54) for providing a desired pattern (such as herringbone bricks) to a soft concrete surface, and

that the flat portion (56) of the tool (50), between the blades (52, 54) can be provided with a pattern, specifically to "produce simulated texture of the material being simulated in concrete". See col. 4, Ins. 15-46. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the concrete stamping device of Jones '783 in view of Sloan with a pattern and texture forming device, as taught by Brimo, in order to increase the aesthetic appearance of the concrete being stamped.

In regards to Claims 18, 35, 60, 69 Jones '783 in view of Wynings discloses a concrete stamping tool including a stamping surface (19) that can be varied in size, shape and materials; but does not specifically disclose the use of urethane rubber.

However, Brimo teaches that concrete stamping device are advantageously formed from urethane rubber, to provide flexibility to the stamping device. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the concrete stamping device of Jones in view of Sloan from urethane rubber, as taught by Brimo, in order to facilitate various goals, as explicitly taught by Brimo, see col. 6, Ins. 7-21.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-90 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Applicant's amendment to the claims requiring separate sets of weights has overcome the reference to Sloan, but has necessitated an new grounds of rejection in light of the reference to Wynings '451.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 571 272-6986. The examiner can normally be reached on 6AM-2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Raymond Addie**  
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Group 3600

11/05/05